

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LOUIS IANNICO,

Petitioner,

-against-

05 Civ. 6072 (LAK)

CRAIG APKER,

Respondent.

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ORDER

LEWIS A. KAPLAN, *District Judge*.

Petitioner seeks a writ of habeas corpus invalidating the Bureau of Prisons' February 14, 2005 amendment to 28 C.F.R. § 570.21, the rule governing the designation of inmates to community corrections facilities, and requiring respondent to consider transferring him to such a facility without regard to that rule.

This rule and the February 14, 2005 amendment have been the subject of several habeas petitions in this circuit, with the "majority of courts upholding the regulation as a permissible, albeit categorical, exercise of the BOP's broad discretion to designate and transfer inmates under 18 U.S.C. § 3621(b)." *Charboneau v. Menifee*, 05 Civ. 1900 (MBM), 2005 WL 2385862, at *3 (S.D.N.Y. Sept. 28, 2005) (upholding the regulation); *see also, e.g., Lowy v. Apker*, 05 Civ. 10336 (LBS), 2006 WL 305760, at *2 n.6 (S.D.N.Y. Feb. 9, 2006) (upholding the regulation after noting that a "majority of the courts in the Southern District of New York to have considered these regulations have upheld them"); *Eli v. Apker*, 05 Civ. 2703 (DC), 2005 WL 2848956 (S.D.N.Y. Oct. 28, 2005) (upholding the regulation); *Bialostock v. Apker*, 05 Civ. 2698 (RJH), 2005 WL 1946480 (S.D.N.Y. Aug. 12, 2005) (same); *Gentzler v. United States*, 05 Civ. 4521 (LTS), 2005 WL 1773684 (S.D.N.Y. July 27, 2005) (same); *Moss v. Apker*, 376 F.Supp.2d 416 (S.D.N.Y. 2005) (same); *Troy v. Apker*, 05 Civ. 1306 (GEL), 2005 WL 1661101 (S.D.N.Y. Jun. 30, 2005) (same); *Levine v. Menifee*, 05 Civ. 1902 (RCC), 2005 WL 1384021 (S.D.N.Y. Jun. 9, 2005) (same); *Levine v. Apker*, 05 Civ. 3472 (CLB), 2005 WL 1417134 (S.D.N.Y. May 20, 2005) (same); *Yip v. Fed. Bureau of Prisons*, 363 F.Supp.2d 548 (E.D.N.Y. 2005) (same).

I adopt the majority view based on the reasoned analysis set forth in these opinions.
Accordingly, the petition is denied.

SO ORDERED.

Dated: March 6, 2006



Lewis A. Kaplan
United States District Judge

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